

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND**

SOTHINATHAN SINNATHURAI,

Plaintiff,

v.

NOVAVAX, INC., STANLEY C. ERCK,
GREGORY F. COVINO, AND JOHN J.
TRIZZINO,

Defendants.

Civil Action No. TDC-21-2910

JOINT STATUS REPORT WITH STIPULATION AND [PROPOSED] ORDER

Pursuant to this Court's Order entered on January 19, 2022 (Dkt. No. 43), the undersigned parties hereby respectfully submit the following Joint Status Report with Stipulation and [Proposed] Order resolving the remaining motions for Lead Plaintiff appointment.

This putative class action (the "Action") was commenced on November 12, 2021, on behalf of a class consisting of all investors that purchased or otherwise acquired Novavax, Inc. securities between March 2, 2021 and October 19, 2021, both dates inclusive (the "Class Period"). *See* Dkt. No. 1. Notice of pendency of the Action was issued on that same date pursuant to the Private Securities Litigation Reform Act of 1995 ("PSLRA"), advising all putative Class members of their right to seek appointment as Lead Plaintiff and approval of their selection of Lead Counsel in this Action on or before the statutory deadline of January 11, 2022.

On January 11, 2022, seven putative Class members or groups of Class members filed motions (or notices of intent to file motions) pursuant to the PSLRA seeking appointment as Lead Plaintiff and approval of their respective selections of Lead Counsel: (1) David Truong ("Truong") (Dkt. No. 24); (2) Nuggehalli Balmukund Nandkumar and Jeffrey A. Gabbert (together,

“Nandkumar and Gabbert”) (Dkt. No. 26); (3) Shamsheer Ahluwalia (“Ahluwalia”) (Dkt. No. 23); (4) Ricci Moreno (“Moreno”) (Dkt. No. 18); (5) Gholi M. Tajiani and Lihua Du (together, “Tajiani and Du”) (Dkt. No. 21); (6) Robert Meadows (“Meadows”) (Dkt. No. 27); and (7) Joseph Douglas (“Douglas”) (Dkt. No. 20).

Between January 13 and January 18, 2022, movants Moreno, Tajiani and Du, and Meadows variously filed notices of non-opposition to the competing motions or notices of withdrawal of their own motions, each acknowledging that they did not appear to have the largest financial interest in the Action within the meaning of the PSLRA (*see* Dkt. Nos. 30, 38, 40).

On January 19, 2022, the Court held a Case Management Conference, attended by, *inter alia*, counsel for the four remaining Lead Plaintiff movants: Truong, Nandkumar and Gabbert, Ahluwalia, and Douglas. The Court instructed “[c]ounsel with an interest in having their client serve as lead plaintiff [to] meet and confer and file a Joint Status Report by Tuesday, January 25, 2022 advising the Court of the identity of the lead plaintiff if an agreement is reached.” Dkt. No. 43.

After conferring with counsel for each of the remaining Lead Plaintiff movants, counsel for Truong and Nandkumar and Gabbert acknowledge that each respective Lead Plaintiff movant asserts the two largest losses of the competing Lead Plaintiff movants, and therefore have the “largest financial interest” in the relief sought by the Class in the Action, 15 U.S.C. § 78u-4(a)(3)(B)(iii)(bb). In addition to possessing the largest financial interest in the outcome of the litigation, Truong and Nandkumar and Gabbert satisfy the relevant requirements of Rule 23, 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I)(cc).

Accordingly, Truong and Nandkumar and Gabbert each concluded that a protracted dispute concerning Lead Plaintiff appointment in the Action is not in the best interests of the Class and

that jointly prosecuting the Action would be appropriate and assist with the speedy and efficient litigation of the Action. Truong and Nandkumar and Gabbert therefore agreed to resolve their competing motions and to seek, with the Court's approval, to serve jointly as Lead Plaintiff. Courts in this Circuit and around the country routinely appoint co-lead plaintiffs when competing movants have stipulated to work together after the statutory deadline for seeking appointment as lead plaintiff and are not simply joining forces to supplant another competing movant with a potentially larger financial interest, *see, e.g., In re First Union Corp. Sec. Litig.*, 157 F. Supp. 2d 638, 643 (W.D.N.C. 2000) (approving stipulation appointing competing movants as co-lead plaintiffs and approving their selection of co-lead counsel); *see also Kang v. PayPal Holdings, Inc.*, No. 21-cv-06468 (N.D. Cal. Nov. 2, 2021), ECF No. 29 (Breyer, J.) (same).

Counsel for Ahluwalia and Douglas have indicated that they do not oppose the proposed Lead Plaintiff appointment of Truong and Nandkumar and Gabbert, each acknowledging that they do not appear to have the largest financial interest in the Action within the meaning of the PSLRA.

NOW, THEREFORE, IT IS HEREBY STIPULATED, subject to the Court's approval, as follows:

1. Pursuant to the PSLRA, 15 U.S.C. § 78u-4(a)(3)(B), Truong and Nandkumar and Gabbert agree to serve as Co-Lead Plaintiffs for the Class in the Action; and
2. Pursuant to the PSLRA, 15 U.S.C. § 78u-4(a)(3)(B)(v), Truong's and Nandkumar and Gabbert's respective counsel, Labaton Sucharow LLP and Pomerantz LLP, agree to serve as Co-Lead Counsel for the Class in the Action.

IT IS SO STIPULATED.

Dated: January 25, 2022

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Counsel for Joseph Douglas


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ORDER GRANTING STIPULATION

Based on the stipulation of the signed parties, and for good cause shown, IT IS HEREBY
ORDERED that the Stipulation is approved.

IT IS SO ORDERED:

DATED: 1/26/2022


HON. THEODORE D. CHUANG
U.S. DISTRICT JUDGE